

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

NEVADA RESTAURANT SERVICE, INC., )  
d/b/a DOTTY'S, )  
Plaintiff, ) Case No.: 2:15-cv-02240-GMN-GWF  
vs. )  
CITY OF LAS VEGAS, CITY COUNCIL OF )  
LAS VEGAS, )  
Defendants. )  
ORDER

Pending before the Court is Defendants City of Las Vegas and City Council of Las Vegas' (collectively "Defendants") Motion in Limine, (ECF No. 64), to which Plaintiff Nevada Restaurant Services, Inc. ("Plaintiff") filed a Response, (ECF No. 71), and Defendants filed a Reply, (ECF No. 76).<sup>1</sup>

Also pending before the Court are two of Plaintiff's Motions in Limine, (ECF Nos. 65, 66). Defendants filed Responses to the Motions, (ECF Nos. 72, 73), and Plaintiff filed Motions for Leave to File Replies, (ECF No. 77, 79), to both of its Motions in Limine.<sup>2</sup>

## I. BACKGROUND

This case arises out of Defendants' issuance of a permanent restricted gaming license to Plaintiff for its Store #110, located at 10000 West Sahara Avenue, Suite 100, Las Vegas, NV 89117 ("Store #110") that allowed only seven gaming machines, rather than the fifteen

<sup>1</sup> Pursuant to Local Rule 16-3(a), replies to motions in limine will be allowed only with leave of the court. Here, Defendants have not requested leave to file their Reply, (ECF No. 76). Accordingly, **IT IS HEREBY ORDERED** that Defendants' Reply is **STRICKEN**.

<sup>2</sup> For good cause appearing, **IT IS HEREBY ORDERED** that Plaintiff's Motions for Leave to File Responses, (ECF Nos. 77, 79), are **GRANTED**. See D. Nev. LR 16-3.

1 machines sought by Plaintiff and previously permitted by Plaintiff's temporary license. (Compl.  
2 ¶ 49, ECF No. 1). On November 25, 2015, Plaintiff filed its Complaint in this Court, including  
3 six causes of action: (1) Petition for Writ of Mandamus, (2) Judicial Review, (3) Equal  
4 Protection Violation, (4) Violation of 42 U.S.C. § 1983, (5) Injunctive Relief, and (6)  
5 Declaratory Relief. (*See id.* ¶¶ 50–89). Plaintiff asserts that the reduction of its gaming  
6 machines from the fifteen to seven was arbitrary and capricious, and that it was treated  
7 differently than other similarly situated establishments. (*Id.* ¶¶ 40–48). On March 31, 2017, the  
8 Court granted in part and denied in part Defendants' motion for summary judgment dismissing  
9 Plaintiff's general equal protection claim, and finding that there were genuine issues of fact for  
10 the other causes of action. (Order 11:2–5, ECF No. 50).

11 In Defendants' instant Motion in Limine, they request that the Court prohibit Plaintiff  
12 from introducing evidence or testimony concerning its alleged damages at trial. (Mot. in Lim.  
13 ("MIL") 1:24–26, ECF No. 64).

14 In Plaintiff's first Motion in Limine, it requests that the Court preclude evidence of  
15 Plaintiff's other administrative or legal actions. (*See generally* MIL, ECF No. 65). In  
16 Plaintiff's second Motion in Limine it requests that the Court preclude evidence that applicants  
17 for new tavern locations are treated differently for gaming license purposes than existing tavern  
18 locations. (*See generally* MIL, ECF No. 66).

19 **II. LEGAL STANDARD**

20 **A. Motion in Limine**

21 In general, “[t]he court must decide any preliminary question about whether . . .  
22 evidence is admissible.” Fed. R. Evid. 104(a). In order to satisfy the burden of proof for  
23 Federal Rule of Evidence (“FRE”) 104(a), a party must show that the requirements for  
24 admissibility are met by a preponderance of the evidence. *See Bourjaily v. United States*, 483  
25 U.S. 171, 175 (1987) (“We have traditionally required that these matters [regarding

1 admissibility determinations that hinge on preliminary factual questions] be established by a  
2 preponderance of proof.”).

3 “Although the [FRE] do not explicitly authorize in limine rulings, the practice has  
4 developed pursuant to the district court’s inherent authority to manage the course of trials.”  
5 *Luce v. United States*, 469 U.S. 38, 41 n.4 (1984) (citing FRE 103(c)). In limine rulings “are  
6 not binding on the trial judge, and the judge may always change his mind during the course of a  
7 trial.” *Ohler v. United States*, 529 U.S. 753, 758 n.3 (2000); *see also Luce*, 469 U.S. at 41  
8 (noting that in limine rulings are always “subject to change,” especially if the evidence unfolds  
9 in an unanticipated manner). To exclude evidence on a motion in limine, the evidence must be  
10 “clearly inadmissible on all potential grounds.” *Ind. Ins. Co. v. Gen. Elec. Co.*, 326 F. Supp. 2d  
11 844, 846 (N.D. Ohio 2004).

12 **III. DISCUSSION**

13 **A. Defendants’ Motion in Limine ECF No. 64**

14 *1. Computation of Damages*

15 Defendants move to preclude Plaintiff from “introducing evidence or testimony  
16 concerning its alleged damages at trial” on the basis that Plaintiff did not sufficiently disclose  
17 its damages during discovery. (MIL 1:24–26, ECF No. 64). Defendants argue that Plaintiff  
18 “failed to provide, as required by Rule 26, a computation of its damages or, *ipso facto*, evidence  
19 on which any computation was based. Thus, pursuant to Rule 37, the Court must prohibit  
20 Plaintiff from introducing any evidence or testimony concerning damages at trial.” (*Id.* 2:24–  
21 27).

22 In Response, Plaintiff argues that Defendants’ Motion should be denied for three  
23 reasons: (1) Plaintiff’s computation of damages was sufficient to satisfy Rule 26(a) because it  
24 not only provided an amount of the damages, but also provided the information necessary to  
25 determine how that amount was computed; (2) if there was a violation of Rule 26, it was

1 harmless; and (3) neither the facts nor the law support the harsh remedy of total exclusion of  
2 Plaintiff's damages. (Resp. 2:11–17, ECF No. 71).

3 Federal Rule of Civil Procedure ("FRCP") 26(a)(1)(A)(iii) requires a party to provide "a  
4 computation of each category of damages claimed by the disclosing party." The disclosing  
5 party "must also make available for inspection and copying as under [FRCP] 34 the documents  
6 or other evidentiary material . . . on which each computation is based, including materials  
7 bearing on the nature and extent of injuries suffered." Fed. R. Civ. P. 26(a)(1)(A)(iii). While a  
8 party may not have all of the information necessary to provide a computation of damages early  
9 in the case, it has a duty to diligently obtain the necessary information and prepare and provide  
10 its damages computation within the discovery period. *See Allstate Ins. Co. v. Nassiri*, No. 2:08-  
11 cv-00369-JCM-GWF, 2010 WL 5248111, \*4 (D. Nev. 2010).

12 Pursuant to FRCP 26(e)(1)(A), a party must supplement or correct its disclosures or  
13 discovery responses "in a timely manner if the party learns that in some material respect the  
14 disclosure or response is incomplete or incorrect, and if the additional or corrective information  
15 has not otherwise been made known to the other parties during the discovery process or in  
16 writing." However, "Rule 26 does not elaborate on the level of specificity required in the  
17 initial damages disclosure." *Silvagni v. Wal-Mart Stores, Inc.*, 320 F.R.D. 237, 240 (D. Nev.  
18 2017) (citing *City and County of San Francisco v. Tutor-Saliba Corporation*, 218 F.R.D. 219,  
19 221–222 (N.D. Cal. 2003)). "If a party fails to provide information or identify a witness as  
20 required by Rule 26(a) or (e), the party is not allowed to use that information or witness to  
21 supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially  
22 justified or is harmless." Fed. R. Civ. P. 37(c)(1).

23 On February 26, 2016, Plaintiff submitted its initial disclosures which stated

24 As indicated in the pending motion for preliminary injunction, [Plaintiff's]  
25 potential damages arising from the actions of the City are difficult to compute, as  
many of them constitute irreparable harm. In the event that no injunction is  
granted and the City's position is allowed to stand, [Plaintiff] will require expert

1 analysis and testimony on this point, which will be supplemented at a later time.  
2 [Plaintiff's] damages will also include attorney's fees and costs.

3 (Pl.'s Initial Disclosures 5:17–22, Ex. A to MIL, ECF No. 64-1).

4 Plaintiff claims that during discovery it realized expert analysis was unnecessary to  
5 prove its damages, and for this reason, Plaintiff supplemented its initial disclosure on the last  
6 day of discovery, November 15, 2016. (Resp. 3:12–18); (*see* Scheduling Order, ECF No. 33).  
7 The supplement reads as follows:

8 As indicated in earlier disclosures, [Plaintiff] needed more data to fully and  
9 accurately calculate its damages arising from the City's actions. In the time  
10 since, Robert Swadkins of [Plaintiff] has been able to assemble and analyze that  
11 data in a meaningful and accurate way. As of October 31, 2016, [Plaintiff] has  
12 been able to estimate its loss of slot win damages arising from the reduction of 15  
13 slot machines to 7 slot machines to be between \$600,000 to \$1,025,000.  
14 [Plaintiff] continues to accrue these damages on a daily basis and reserves its  
15 right to supplement its damages computation. [Plaintiff's] damages also include  
16 attorney's fees and costs.

17 (Pl.'s First Supplement to Initial Disclosures 12:5–13, Ex. B to MIL, ECF No. 64-2).

18 The Court finds that Plaintiff's supplement disclosure is sufficient under FRCP 26.  
19 First, FRCP 26 does not require a certain level of specificity. *Silvagni*, 320 F.R.D. at 240.  
20 Second, the rule does not require Plaintiff to produce documents. Fed. R. Civ. P.  
21 26(a)(1)(A)(iii). FRCP 26 requires that Plaintiff make available for inspection and copying  
22 documents on which the computation is based. *Id.* Here, Defendants do not argue that they  
23 were not permitted to inspect or copy data used to compute damages, instead Defendants claim  
24 that "Plaintiff did not disclose any admissible documentation, information, or data to support its  
25 alleged gaming damages." (MIL 6:21–22). Indeed, Plaintiff notes that Defendants "refused to  
conduct discovery during the discovery period" and "did not request additional information or  
documents, nor did it request an opportunity to extend or reopen discovery on a limited basis to  
depose Mr. Swadkins." (Resp. 7:23–24, 4:12–14).

1 At this time the Court is not persuaded that Defendants were unable to inspect the data  
2 Robert Swadkins used to calculate damages. Further, Plaintiff's supplement details how the  
3 damages were computed and provides a witness for support; Robert Swadkins estimated the  
4 amount of daily profits per machine, multiplied by eight machines, from the date the number of  
5 slot machines were reduced until October 13, 2016. Therefore, Plaintiff provided its  
6 computation of damages in sufficient detail which enabled Defendants to understand the  
7 contours of their potential exposure and make informed decisions regarding settlement and  
8 discovery.

9 Furthermore, the Court finds that any lack of detail or support was harmless.  
10 Defendants are able to proceed to trial without additional computation information because  
11 Defendants have been given sufficient information to understand Plaintiff's damages requests  
12 and how Plaintiff plans to present its damages calculation at trial. Trial is currently set for  
13 October 15, 2018, almost two months after Plaintiff's damages supplement was provided,  
14 which provides Defendants ample time to request to reopen discovery, to find an expert  
15 witness, and depose Robert Swadkins. (*See Order*, ECF No. 75); *see also Nassiri*, 2010 WL  
16 5248111 at \*5 (noting that evidence is most often excluded in “extreme situations” in which  
17 the plaintiff did not provide a damages computation until shortly before trial or until well after  
18 the close of discovery”); *see also CCR/AG Showcase Phase I Owner, LLC v. United Artists  
Theatre Circuit, Inc.*, No. 2:08-cv-0984-RCJ-GWF, 2010 WL 1947016, at \*8 (D. Nev. May 13,  
2010) (citing *Hoffman v. Constr. Protective Servs., Inc.*, 541 F.3d 1175, 1180 (9th Cir. 2008)  
21 (“[C]ourts are more likely to exclude damages evidence when a party first discloses its  
computation of damages shortly before trial and substantially after discovery has closed”); *see*  
22 *also Yeti by Molly, Ltd. v. Deckers Outdoor Corp.*, 259 F.3d 1101, 1105 (9th Cir. 2001)  
23 (excluding expert evidence submitted nearly two years after the close of discovery and twenty  
24 eight days before trial). In light of the length of time Defendants have between the disclosure  
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1 and trial date to prepare, the Court finds that the supplement was harmless and preclusion is  
2 inappropriate. Accordingly, Defendants' request to prohibit the introduction of evidence  
3 regarding alleged compensatory and special damages is denied.

4       2. *Lay Opinion Testimony*

5       Additionally, Defendants request that Robert Swadkins be "prohibited from offering any  
6 testimony about Plaintiff's purported damages at trial." (MIL 7:19–20, ECF No. 64).  
7 Defendants claim that Plaintiff failed to disclose a witness that can offer admissible expert or  
8 lay opinion testimony concerning the alleged damages. (*Id.* 7:13–14). Defendants argue that  
9 Mr. Swadkins, Plaintiff's Chief Financial Officer, "was never designated by Plaintiff as an  
10 expert" and that he cannot offer lay opinion testimony concerning Plaintiff's alleged damages  
11 because it would require specialized knowledge, and "any data or evidence upon which his  
12 opinion would rest was never disclosed and is, thus, inadmissible." (*Id.* 7:15–19, 8:19–20).  
13 Plaintiff claims that "Mr. Swadkins' lay opinion testimony is admissible evidence because it  
14 does not require specialized knowledge." (Resp. 2:18–19, ECF No. 71).<sup>3</sup>

15       Lay witness testimony is limited to testimony "(a) rationally based on the witness's  
16 perception; (b) helpful to clearly understanding the witness's testimony or to determining a fact  
17 in issue; and (c) not based on scientific, technical, or other specialized knowledge within the  
18 scope of Rule 702." Fed. R. Evid. 701. However, the Committee Notes state that "most courts  
19 have permitted the owner or officer of a business to testify to the value or projected profits of  
20 the business, without the necessity of qualifying the witness as an accountant, appraiser, or  
21 similar expert." Fed. R. Evid. 701, Advisory Committee Notes—2000 Amendments. "Such  
22 opinion testimony is admitted not because of experience, training or specialized knowledge  
23 within the realm of an expert, but because of the particularized knowledge that the witness has

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25       <sup>3</sup> The Court will only consider whether Robert Swadkins' lay opinion testimony is admissible because it is  
undisputed that Plaintiff is not designating Mr. Swadkins as an expert witness. (See Resp. 10:24–25).

1 by virtue of his or her position in the business.” *Id.*; see, e.g., *Lightning Lube, Inc. v. Witco*  
2 *Corp.*, 4 F.3d 1153 (3d Cir. 1993) (no abuse of discretion in permitting the plaintiff’s owner to  
3 give lay opinion testimony as to damages, as it was based on his knowledge and participation in  
4 the day-to-day affairs of the business).

5 Based on the information currently available, the Court agrees with Plaintiff that Robert  
6 Swadkins should be permitted to provide lay opinion testimony as to the value of damages in  
7 regards to the loss of projected slot win profits. Robert Swadkins, by virtue of his position in  
8 the company as Plaintiff’s Chief Financial Officer has particularized knowledge of Plaintiff’s  
9 financial data. Moreover, Robert Swadkins likely has personal knowledge of the affect the  
10 reduction in gaming machines has had on Plaintiff’s profits. See *Nationwide Transp. Fin. v.*  
11 *Cass Info. Sys., Inc.*, No. 2:04-cv-08-BES-LRL, 2006 WL 5242377, at \*6 (D. Nev. Mar. 6,  
12 2006) (“the owner or officer has to have personal knowledge of the information underlying the  
13 calculations and how that information is combined to achieve the bottom line”). However, to  
14 the extent that Robert Swadkins attempts to provide specialized knowledge testimony as a lay  
15 opinion witness, the Court will not allow this form of testimony. Furthermore, Defendants do  
16 not provide any authority to support its argument that lay opinion testimony is inadmissible  
17 without the disclosure of a report, data, or documentation. Accordingly, Defendants’ request to  
18 preclude Robert Swadkins’ lay opinion testimony is denied.

19 **B. Plaintiff’s Motion in Limine ECF No. 65**

20 In this Motion, Plaintiff moves to preclude as irrelevant and prejudicial reference to:  
21 (1) a 2012 order involving litigation between Plaintiff and Clark County, (2) the 2011 Clark  
22 County action, *Nevada Rest. Servs., Inc. v. Clark Cty.*, No. 2:11-cv-00795-KJD, 2012 WL  
23 4355549 (D. Nev. Sept. 21, 2012), *aff’d*, 638 F. App’x 590 (9th Cir. 2016) (“County Action”),  
24 and (3) any reference to other legal or administrative actions involving Plaintiff, and (4)  
25 materials submitted by Todd Bice, counsel for Plaintiff’s competitors, during the July 1, 2015

1 City Council Hearing for the licensing of Store #110. (MIL 2:27–3:8, ECF No. 65).  
2 Specifically, Plaintiff seeks to preclude the following documents produced by Todd Brice: May  
3 18, 2005 order involving Plaintiff's affiliate Oregon Restaurant Services, City of Henderson  
4 City Council March 19, 2013 meeting transcript, Scott Killebrew's undated statement, and  
5 transcripts of hearings before the State Gaming Control Board and Nevada Gaming  
6 Commission from 2004, 2006, 2011, 2013, 2014 (collectively "the documents"). (*Id.* 3:4–15).

7 Plaintiff argues that the County Action and the documents are irrelevant to the issues  
8 raised in this action. (*Id.* 5:26–6:1). Plaintiff avers that "[t]his case is about the specific actions  
9 the City took with respect to Store #110 in 2015 and these other legal actions and  
10 administrative hearings have nothing to do with this case," further, they "would be prejudicial,  
11 a waste of time, and misleading to the jury." (*Id.* 6:24–7:4).

12 Defendants argue that the information regarding other actions is part of the  
13 administrative record, and the "Court must review the administrative record as a whole and  
14 conduct its limited review to determine if the decision of the City Council is supported by  
15 substantial evidence." (Resp. 2:5–9, ECF No. 72). Defendants claim that the Court "may not  
16 delete any portion of the record, such as documents relating to [Plaintiff's] other legal  
17 proceedings," and that the review of the record "must be conducted by the Court rather than the  
18 jury." (*Id.* 4:11–16). Additionally, Defendants contend that the decisions in both this district  
19 and the Ninth Circuit involving Plaintiff and Clark County "are valid legal authority and may  
20 be cited and argued to the Court for legal purposes such as motions pursuant to [FRCP] 52(c)  
21 and to support proposed jury instructions." (*Id.* 4:24–5:5).

22 "Irrelevant evidence is not admissible." Fed. R. Evid. 402. "Evidence is relevant if: (a)  
23 it has any tendency to make a fact more or less probable than it would be without the evidence;  
24 and (b) the fact is of consequence in determining the action." Fed. R. Evid. 401; *Velazquez v.*  
25 *City of Long Beach*, 793 F.3d 1010, 1028 (9th Cir. 2015). Here, Defendants fail to address the

1 specific evidence Plaintiff seeks to preclude, and whether it would be relevant or prejudicial if  
2 presented to a jury. The Court finds that based on the briefing, the evidence is not “clearly  
3 inadmissible on all potential grounds.” *Ind. Ins. Co. v. Gen. Elec. Co.*, 326 F. Supp. 2d 844, 846  
4 (N.D. Ohio 2004). Accordingly, the request to preclude the documents from the jury is denied  
5 as premature.

6 Additionally, the Court finds that Defendants and Plaintiff agree that Plaintiff’s other  
7 legal actions should not be presented to the jury on its federal equal protection claim. (*See*  
8 Resp. 2: 15–16) (“evidence of [Plaintiff’s] legal issues may not be appropriate evidence for  
9 presentation to the jury on its federal equal protection claim”); (*see also* Reply 1:26–28)  
10 (“Although the Court reviews the administrative record as a whole on [Plaintiff’s] petition for  
11 writ of mandamus and judicial review claims, that does not mean that the jury is required to  
12 review that same information for [Plaintiff’s] equal protection violation claims”). The Court  
13 finds that Plaintiff’s administrative or legal actions that are a part of the administrative record  
14 are admissible for judicial review. However, to the extent that the parties agree other legal  
15 actions should not be presented to the jury, the Court will exclude this evidence from the jury.

16 Further, a review of legal authority for the Court to make a finding of law is not  
17 prejudicial or irrelevant. Plaintiff has not cited to any authority to persuade the Court that legal  
18 authority, such as the County Action, should be precluded from the Court if it is offered for the  
19 purpose of citing legal authority. (*See* D. Nev. LR 16-3(a)) (“Motions in limine must identify  
20 the particular evidence or argument to be excluded and state the constitutional, statutory, or  
21 regulatory reasons why the evidence is inadmissible”). Therefore, to the extent that  
22 Defendants cite to the County Action or other actions that are not part of the administrative  
23 record as legal authority to support proposed jury instructions and motions pursuant to FRCP  
24 52(c), they are permitted to do so. Accordingly, Plaintiff’s Motion is granted in part and denied  
25 in part.

1                   **C. Plaintiff's Motion in Limine ECF No. 66**

2                   In this Motion, Plaintiff requests that Defendants be precluded from introducing  
3 evidence that applicants for initial permanent restricted gaming licenses are treated differently  
4 for licensing purposes than applicants for permanent restricted gaming licenses because this  
5 evidence is irrelevant and prejudicial. (MIL 3:13–28, ECF No. 66).<sup>4</sup>

6                   Defendants respond that Plaintiff's "Store #110—unlike existing tavern locations that  
7 already possessed restricted gaming licenses—was granted a restricted gaming license after a  
8 crucial November 4, 2015-staff study recommended limiting the number of slot machines for  
9 future restricted-gaming licensees to ensure their gaming revenue was incidental to the primary  
10 business." (Resp. 4:19–22, ECF No. 73). Defendants argue that the "timing of applicable  
11 licensing decisions" distinguished Store #110 from existing taverns with restricted gaming  
12 licenses, and is evidence that Store #110 is not similarly situated in comparison to the four  
13 taverns Plaintiff references because those four taverns were "granted restricted gaming licenses  
14 for fifteen slot machines *before* the November 4, 2015-staff study." (*Id.* 4:24–5:1).

15                  This Motion is relevant to Plaintiff's class-of-one equal protection claim. In order for  
16 Plaintiff to establish a violation of equal protection in a class-of-one case, the plaintiff must  
17 establish that the defendants: "(1) intentionally (2) treated [Plaintiff] differently than other[s]  
18 similarly situated, (3) without a rational basis." *Gerhart v. Lake Cty., Mont.*, 637 F.3d 1013,  
19 1022 (9th Cir. 2011) (citing *Vill. Of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000); *North*  
20 *Pacifica LLC v. City of Pacifica*, 526 F.3d 478, 486 (9<sup>th</sup> Cir. 2008)). Therefore, it is Plaintiff's  
21 burden to demonstrate that the other taverns were similarly situated. For this reason, evidence  
22 offered by Defendants to show that the taverns were not similarly situated or that Defendants

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24                  <sup>4</sup> Plaintiff requests oral argument on its Motion in Limine, (ECF No. 66). The Court finds that the parties'  
25 arguments are sufficiently briefed and oral argument is unnecessary at this time. Accordingly, the Court  
**DENIES** Plaintiff's motion for hearing.

1 had a rational basis for their actions, such as the date Plaintiff was granted a restricted gaming  
2 license and the November 4, 2015 staff study, are relevant to the class-of-one claim.

3 Additionally, the Court finds that Plaintiff has failed to identify how this evidence is  
4 unfairly prejudicial. FRE 403 requires the Court to determine whether the probative value of  
5 the evidence is substantially outweighed by the danger of unfair prejudice, confusion of the  
6 issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless  
7 presentation of cumulative evidence. *United States v. Arambula-Ruiz*, 987 F.2d 599, 602 (9th  
8 Cir. 1993); *see* Fed. R. Evid. 403. However, Plaintiff fails to explain how the probative value  
9 of the different circumstances between the applicants is outweighed by the danger of unfair  
10 prejudice. Accordingly, Plaintiff's Motion is denied.

11 **IV. CONCLUSION**

12 **IT IS HEREBY ORDERED** that Defendants' Motion in Limine, (ECF No. 64), is  
13 **DENIED**.

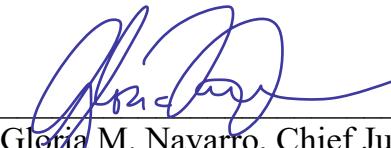
14 **IT IS HEREBY ORDERED** that Plaintiff's Motion in Limine, (ECF No. 65), is  
15 **GRANTED in part and DENIED in part**.

16 **IT IS HEREBY ORDERED** that Plaintiff's Motion in Limine, (ECF No. 66), is  
17 **DENIED**.

18 **IT IS FURTHER ORDERED** that Defendants' Reply, (ECF No. 76), is **STRICKEN**.

19 **IT IS FURTHER ORDERED** that Plaintiff's Motions for Leave to File Responses,  
20 (ECF Nos. 77, 79), are **GRANTED**.

21 **DATED** this 20 day of August, 2018.

22   
23 \_\_\_\_\_  
24 **Gloria M. Navarro, Chief Judge**  
25 **United States District Court**